

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project
Petitioner

v

File No. 21-1770

Meemic Insurance Company
Respondent

Issued and entered
this 2nd day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 22, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Meemic Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of physical therapy bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued a bill denial to the Petitioner on August 27, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 1, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 1, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 15, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 20, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for nine sessions of physical therapy provided to an individual injured in an automobile accident in 2005. The injured person suffered a spinal cord injury (SCI) and a traumatic brain injury (TBI). At issue in this appeal are physical therapy sessions provided on July 14, 16, 19, 21, 23, 26, and 30, 2021.

With its appeal request, the Petitioner submitted the records of the therapy sessions. In its appeal, the Petitioner wrote that the clinical practice guidelines state that to benefit prolong health of an individual with an SCI moderate intensity aerobic activity is recommended. The injured person participates in a functional electrical stimulation program that allows him to work at this intensity as well as improve bone density, core strength, range of motion, skin integrity and spasticity. The injured person also has multiple sclerosis (since age 28) and a mild TBI. Due to his car accident injury, he has developed secondary complications including paraplegia, respiratory compromised, wounds/poor skin integrity, joint contractures, osteoporosis, and exacerbation of his multiple sclerosis and depression.

In its reply, the Respondent stated that, in accordance with American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines (ODG), cervical and thoracic spine disorders up to 182 visits over 26 weeks can be recommended. Respondent states that the medical records do not support this request as the injured person has received greater than 482 sessions for the diagnosed conditions. The Respondent further stated that ample opportunity has been given to establish a home activity program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a licensed physical therapist who has been in active practice since 2015. The IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question represented overutilization of physical therapy, and that the treatment was not in accordance with medically

accepted standards as defined by R 500.61(i). The reviewer recommended that the insurer's decision be upheld. The IRO reviewer wrote:

The most appropriate guidelines for [the] treatments performed on 7/14, 7/16, 7/19, 7/21, 7/23, 7/26 and 7/30/2021 are from the American Physical Therapy Association (APTA) and Academy of Neurologic Physical Therapy (ANPT), which indicate the most appropriate treatments for spinal cord injury patients should focus on functional mobility and therapeutic activities such as transferring, bed mobility, wheelchair mobility, and standing. In addition, [the injured person] should have a home program established so he may maintain the gains he made during the therapy sessions. Additionally, objective measures should be used and reassessed during therapy to demonstrate [he] is improving in therapy.

* * *

[The injured person] should receive treatment that progresses in intensity and skill level and has had a significant number of visits after his initial injury. Therapy visits were overutilized in [the injured person's] clinical scenario as 482 visits exceeds the total number of visits recommended for his injuries. Additionally, [he] could receive therapy in a maintenance capacity, however, visits should be two to four visits to reeducate on the home exercise program.

[The injured person] received therapy that exceeded the normal course of therapy for SCI and TBI injuries. Additionally, there were no objective measures recorded to show an evidence-based improvement in overall strength or functional mobility. Increasing the number of repetitions, improving "bone health" (as per spouse), and lowering body mass index (BMI) are not appropriate measures for improvements in care.

Finally, [the injured person] should have a home program established and maintained if he is to continue with therapy. This allows him to reduce risk of falls and burden of care, while not overutilizing physical therapy visits.

Therefore, the physical therapy treatments performed on 7/14, 7/16, 7/19, 7/21, 7/23, 7/26 and 7/30/2021 were overutilized.

The IRO reviewer recommended that the Director uphold the Respondent's August 27, 2021, determination.

IV. ORDER

The Director upholds the Respondent's August 27, 2021, determination.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford